



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

TJR  
Docket No: 5327-99  
16 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 28 August 1972 at the age of 17. Your record reflects that on 5 February 1973 you received nonjudicial punishment (NJP) for an 11 day period of unauthorized absence (UA) and misbehavior as a sentinel. The punishment imposed was forfeitures totalling \$75 and correctional custody for seven days.

Your record further reflects that during the period from 21 January 1973 to 27 August 1974 you were in a UA status on four occasions for 521 days for which you were referred for a special court-martial (SPCM). However, on 1 December 1973, while in a UA status, you were convicted by civil authorities of theft in the amount of \$210 and criminal conspiracy. You were sentenced to probation for two years and \$1,000 court costs.

Subsequently, you were notified of pending administrative separation by reason of misconduct due to civil conviction. After consulting with legal counsel you waived your rights to present your case to an administrative discharge board or to submit a statement in rebuttal to the discharge. On 4

September 1974 your commanding officer recommended that you be issued an undesirable discharge by reason of misconduct due to civil conviction. The discharge authority approved the foregoing recommendation and directed your commanding officer to issue you an undesirable discharge. On 24 September 1974 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that your discharge was unjust because of the abuse you suffered. The Board also considered your contention that you feared for your life after being threatened, beaten, and physically and mentally abused. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your frequent and lengthy periods of UA and the serious nature of your misconduct in the civilian community which resulted in a conviction. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director